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| 09/037,128 | 03/09/1998 | DOUGLAS DEAN SCHOON | REV-98-5 | 6767 |

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EXAMINER

WEBMAN, EDWARD J

ART UNIT PAPER NUMBER

1617

DATE MAILED: 12/05/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/037128

Applicant(s)

SCHON

Examiner

WEBMAN

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/13/01
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 3-23, 25-31 is/are pending in the application.
- ☐ Of the above claim(s) 26-30 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 3-23, 25, 31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-23, 25, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery in view of Pagano et al. and Beaver.

Montgomery teaches an artificial fingernail composition comprising monomeric methacrylate esters, Di- and tri functional monomeric methacrylate esters and a tertiary amine accelerator (abstract). Trimethylol propane trimethacrylate (column 1 line 36) and tetraethylene glycol dimethacrylate (column 8 lines 33-34) are disclosed. Ethyl methacrylate (column 1 line 30) and hydroxyl propyl methacrylate (column 4 lines 3-4) are specified. Hydroxy Benzotriazoles are disclosed (column 4 lines 25-33).

Pagano et al teaches a nail enamel composition comprising a polymer synthesized from a monoethylenically unsaturated vinyl monomer containing plural carboxyl groups (abstract). Acetoacetoxy-ethyl methacrylate is specified (column 6 table). Superior gloss, adhesion and wear are disclosed (column 1 lines 33-35).

Beaver teaches artificial acrylic fingernails (abstract). Plasticizers such as phthalate esters are specified (column 7 line 7-8).

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It would have been obvious to one of ordinary skill to add monethylenically unsaturated vinyl monomer comprising plural carboxyl groups to the composition of Montgomery to achieve the beneficial effect of superior gloss, adhesion, and wear in view of Pagano et al.

As to the claimed plasticizer, such are known to be added to artificial acrylic fingernails in view of Beaver.

Applicants argue hindsight, however, motivation to combine is provided. As to applicants' comment on Plasticizers, the reference to Plasticizers above concerns claim 21. Applicants also argue in situ polymerization, However, intended uses are not considered patentable limitations in composition claims during prosecution before the Office.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is (703) -308-4432. The examiner can normally be reached on Monday through Friday from 9 Am to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, M. Moezie, can be reached on (703) -308-0570. The fax phone number for the organization where this application or proceeding is assigned is (703) -305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-1235.

Webman/LR

November 7, 2001


EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500